

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

ELAINE L. CHAO, Secretary of
Labor, United States
Department of Labor,

Plaintiff,

v.

ACTION FORCE SECURITY, INC., a
Corporation, and YOLANDA LOPEZ
TORRES, Individually and as
President/Owner,

Defendants.

Civil No. 04-1065 (JAF)

ORDER FOR THE ENTRY OF JUDGMENT

Plaintiff, Elaine L. Chao, Secretary of Labor, United States Department of Labor ("the Secretary") has filed her complaint and defendants appeared by Counsel and have filed an answer. Plaintiff filed a motion for summary judgment which the court now **grants**. We find that there is no controversy as to material fact; that (a) overtime compensation in the gross amount of \$1,124,736.60, plus liquidated damages in an amount equal to the overtime compensation, for a total amount of \$2,249,473.20, is owed to defendants' employees for the period January 30, 2001, through February 2005, and that (b) a Civil Money Penalty in the amount of \$85,660 is owed to the U.S. Department of Labor in relation to the defendants' overtime violations.

It is hereby:

Civil No. 04-1065 (JAF)

-2-

1 **I. ORDERED** that the defendants are enjoined and restrained from
2 withholding the payment of \$1,124,736.60 in overtime compensation to
3 their employees. Payment of these \$1,124,736.60 shall be made by the
4 defendants within thirty (30) days by delivering a certified check
5 payable to "Wage-Hour, Labor" in the amount of \$1,124,736.60 to
6 Plaintiff's representatives, J.P. Morgan Chase, U.S. Department of
7 Labor - Northeast Region, P.O. Box 880903, Dallas, TX 75388-0903.

8 It is further

9 **II. ORDERED** that the defendants shall pay \$1,124,736.60 in
10 liquidated damages to their employees. Payment of these \$1,124,736.60
11 shall be made by the defendants within thirty (30) days by delivering
12 a certified check payable to "Wage-Hour, Labor" in the amount of
13 \$1,124,736.60 to Plaintiff's representatives, J.P. Morgan Chase, U.S.
14 Department of Labor - Northeast Region, P.O. Box 880903, Dallas, TX
15 75388-0903.

16 It is further

17 **III. ORDERED** that defendants shall pay \$85,660 in Civil Money
18 Penalty to Plaintiff. Payment of these \$85,660 shall be made by the
19 defendants within thirty (30) days by delivering a certified check in
20 that amount made to the order of "Wage Hour Division-Labor" to United
21 States Department of Labor, Employment Standards Administration, Wage
22 and Hour Division, 170 Independence Mall West, Room #850,
23 Philadelphia, PA 19106.

24 It is further

Civil No. 04-1065 (JAF)

-3-

1 **IV. ORDERED** that defendants, their officers, servants,
2 employees, agents, and all persons acting or claiming to act in the
3 defendants' behalf and interest be, and they hereby are, permanently
4 enjoined and restrained from violating the provisions of sections 7,
5 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of
6 1938, as amended, (29 U.S.C. Section 201 et seq.), ("the Act"), in
7 any manner, including:

8 (a) Defendants shall not, contrary to Section 7 of the Act,
9 employ any of their employees in any workweek, who are engaged in
10 commerce or in the production of goods for commerce, or employed in
11 an enterprise engaged in commerce or in the production of goods for
12 commerce, within the meaning of the Act, for workweeks longer than
13 the hours now, or which in the future become, applicable under
14 Sections 7 and 15(a)(2) of the Act, unless the employees receive
15 compensation for their employment in excess of the prescribed hours
16 at rates not less than one and one-half times the employees' regular
17 rates.

18 (b) Defendants shall make, keep, and preserve accurate and
19 complete records of their employees and of the wages, hours, and
20 other conditions and practices of employment maintained by them as
21 prescribed by the Regulations issued pursuant to Section 11(c) of the
22 Act and found at 29 CFR Part 516.

23 It is further

Civil No. 04-1065 (JAF)

-4-

1 **V. ORDERED** that Plaintiff shall submit a Supplemental Motion
2 within thirty (30) days, which will include an Exhibit delineating
3 the amount of overtime compensation and liquidated damages owed to
4 the specific employees of defendants for the period January 30, 2001,
5 through February 2005.

6 It is further

7 **VI. ORDERED** that, within ten (10) days, Defendants shall submit
8 to Plaintiff payroll records for the period subsequent to February
9 2005, so that Plaintiff may determine whether any additional back
10 wages and liquidated damages are due to defendants' employees. If
11 Plaintiff determines that additional back wages and liquidated
12 damages are due, Plaintiff shall submit a Second Supplemental Motion
13 within sixty (60) days.

14 It is further

15 **VII. ORDERED** that neither defendants nor any one on their
16 behalf shall directly or indirectly solicit or accept the return or
17 refusal of any sums paid under this Order or any Supplemental Order
18 in this action.

19 It is further

20 **VIII. ORDERED** that Plaintiff shall distribute the defendants'
21 payments of overtime compensation and liquidated damages to the
22 employees involved, or to their estates, if that is necessary, and
23 any sums not distributed to the employees, or to their personal
24 representatives because of inability to locate the proper persons or

Civil No. 04-1065 (JAF)

-5-

1 because of such persons' refusal to accept such sums, shall be
2 deposited by the Secretary of Labor in a special deposit account to
3 be paid to the rightful employee. When recovered wages and
4 liquidated damages have not been claimed by the employee within three
5 (3) years, the Secretary of Labor shall deposit them in to the United
6 States Treasury as miscellaneous receipts.

7 It is further

8 **IX. ORDERED** that Defendants shall make available to plaintiff
9 the social security number and last known address of each employee or
10 former employee listed in any Supplemental Motion.

11 It is further

12 **X. ORDERED** that defendants shall, within sixty (60) days,
13 establish a computerized electronic system for the recording of hours
14 worked and all other payroll information, for the calculation of
15 wages due, and for the payment of wages.

16 It is further

17 **XI. ORDERED** that each party shall bear its own fees and other
18 expenses incurred by such party in connection with any stage of this
19 proceeding.

20 It is further

21 **XII. ORDERED** that, if the defendants fail to make the required
22 payments or if defendants violate any provisions of the Act, or of
23 this Order or any Supplemental Order, or any Judgment or Supplemental
24 Judgment in this action, then the Secretary of Labor shall have leave

Civil No. 04-1065 (JAF)

-6-

1 to apply for such other relief in contempt or otherwise as this court
2 deems proper.

3 Judgment shall enter incorporating the terms of this Order as if
4 set forth at length therein.

5 **IT IS SO ORDERED.**

6 San Juan, Puerto Rico, this 16th day of May, 2005.

7 S/José Antonio Fusté
8 JOSE ANTONIO FUSTE
9 Chief U. S. District Judge